



What You Need to Know
About Sex Offenders, Community Protection, and the Law

December 3, 2002

Department of Social & Health Services
Health and Rehabilitative Services Administration
Special Commitment Center
PO Box 45322
Olympia, WA 98504-5322
(360) 902-8259

Fax: (360) 902-8497
TABLE OF CONTENTS

Why aren't all dangerous sex offenders locked up for life?.....	Page 1
Why are Secure Community Transition Facilities (SCTFs) necessary now?	Page 2
What are local communities required to do?	Page 3
Are there more sex offenders now than there used to be?	Page 5
Why do some sex offenders go to the Special Commitment Center (SCC), while others are released directly to the community? ..	Page 5
What kind of treatment do SCC residents receive? Does it work?	Page 5
Why are there different levels of supervision for different categories of sex offenders? How does the sex offender classification system work?	Page 7
How does post-release supervision differ for SCC residents and those who are released directly from prison to the community?	Page 8
What lies ahead? Will there be more or fewer sex offenders being released in the future?	Page 9
How does the siting process for SCTFs work?	Page 9
How will SCTFs operate? What security measures will they have? ..	Page 10
How and where can people in affected communities get concerns, grievances, or requests for mitigation addressed?	Page 11
How can I keep my family safe from sex offenders?	Page 11
Where can victims go for help in dealing with sex offenses?	Page 12

What You Need To Know

About Sex Offenders, Community Protection, and the Law

Why aren't all dangerous sex offenders locked up for life?

This is a question our society and our legislature have been struggling with for over a decade.

In the late 1980s, three shocking, highly publicized crimes put protection from sex offenders on the public agenda, and led to the passage of the 1990 Community Protection Act.

The Community Protection Act increased prison sentences for most sex crimes. It also requires that communities be notified when dangerous sex offenders are released from prisons or juvenile institutions. You have probably seen notices about sex offenders in your local newspaper, and you might have received a flyer at your home if a sex offender moved into your immediate neighborhood.

The Community Protection Act also called for the creation of the Special Commitment Center (SCC), a special, locked mental health facility that is now located on McNeil Island, within the perimeter of a state prison. Because the SCC is a mental health facility, it is run by the state's Department of Social and Health Services (DSHS), which oversees the state's public mental health system. (The Department of Corrections (DOC) oversees state prisons.)

The idea of the Special Commitment Center is that certain sex offenders have mental abnormalities or personality disorders that contribute to their likelihood to re-offend, and that specialized mental health treatment can reduce this danger. When these offenders have completed their prison sentences, the law provides for the court to civilly commit them to the SCC for mental health treatment rather than releasing them to the community.

Some people believed that creating the SCC would be a way to keep dangerous offenders locked up indefinitely. But a federal district court has ruled that this can't be the case. If offenders participate in mental health treatment and improve to the point that the community can be adequately protected, the federal court has ruled that the offenders have a constitutional right to be released to "less restrictive facilities," and to eventually return to society.

When the court issued this ruling, legislators tried other ways to keep dangerous sex offenders locked up longer. In 1996, they increased sentences for major sex offenses again, and passed “two-strikes” legislation that calls for life sentences for a second conviction of a serious sex crime. This didn’t work very well because sex offenders often plead guilty to reduced charges, and because prosecutors and the courts are reluctant to send young offenders to prison for life if there is any hope at all that they will change their ways. They point out that the recidivism rate for sex offenders is relatively low compared to other kinds of crime, and that most offenders stop being violent when they get older.

Because of these problems with the two-strikes law, the legislature, in 2001, passed yet another law. This time they replaced “determinate” sentences for sex offenders (that is, sentences with a fixed amount of time) with “indeterminate” sentences that can be extended when there is a risk of repeat crime. This law requires the Indeterminate Sentence Review Board (similar to a parole board) to review the cases of sex offenders who were convicted after September 1, 2001, and to deny release if it finds that an offender is “likelier than not” to commit a similar crime if he is released. If it denies release, the Board must review the case again every two years. This law means that a sex offender can be kept behind bars for as long as he poses a danger to the community – for five years, ten years, or life.

The result of all these changes in the law is that different offenders face different sentences *depending on when they were convicted of their crimes*. Offenders who were sent to prison in the mid-1980s, for example, are subject only to the laws that were on the books at that time. When their prison terms expire, they are released. However, they must register with police as sex offenders, and if there is a high risk that they will re-offend, communities are notified about their release. These offenders may also be civilly committed to the Special Commitment Center if they have a mental abnormality or personality disorder and are considered more likely than not to re-offend.

Why are Secure Community Transition Facilities (SCTFs) necessary now?

Offenders are offered mental health treatment at the SCC. If they participate in treatment and learn to manage their behavior and control their impulses, state and federal courts have ruled that they have a constitutional right to be released into a “less restrictive alternative.” In some cases, that may mean offenders are released to their families, with close monitoring and supervision from the Department of Corrections, the

SCC, and local law enforcement. These offenders must continue to participate in community-based sex offender treatment, and, unless otherwise ordered by the court, they must wear electronic monitoring devices.

In many cases, however, offenders don't have families who will take them in and share responsibility for supervising them. And even when families are willing, the court may not be convinced that they are capable of maintaining the level of vigilance that's needed. For these offenders, the SCC must create community-based transition facilities where newly-released SCC residents can live.

If the state fails to create these facilities soon, it might be required to release offenders into the community *without* having facilities where they would be supervised and monitored. Further delays will also result in the state having to pay enormous federal court fines.

What are local communities required to do?

The state has ultimate responsibility for placing sex offenders and protecting all the residents of Washington. But the state can't carry out this responsibility without the help and cooperation of local communities.

As you might expect, it's been extremely difficult to find a community willing to have a less restrictive facility for sex offenders. That's why the state legislature, in 2001, passed a law placing one such facility on McNeil Island, and calling on cities and counties to create special zoning regulations to spell out where more of these facilities can be located.

The 2001 law required all local governments (cities and counties) to create zoning regulations to accommodate SCTFs. But in 2002, the legislature amended the law, and required local governments in the state's six most populous counties to do this, or to allow DSHS to choose sites. Cities and towns within Clark, Kitsap, King, Thurston, Snohomish and Spokane Counties (and the county governments themselves) were directed to create zoning laws to accommodate SCTFs because the courts in these counties had sent the biggest number of sex offenders to the SCC. (Pierce County was not included because it already has an SCTF on McNeil Island.)

The legislature specified that if local governments in the six counties *don't* create zoning regulations to accommodate SCTFs – or if local ordinances don't comply with the state siting requirements – the Secretary of DSHS will make the decision about where to locate them.

Local governments that have created zoning regulations for SCTFs have usually chosen to locate them in light industrial areas – not in shopping areas or residential neighborhoods.

The 2001 law is very specific about how decisions should be made about where to put these facilities. SCTFs must not be located adjacent to, across the street or parking lot from, or “within line of sight” of a risk potential activity or location. “Line of sight” is further defined as “the ability to reasonably distinguish or recognize individuals.” DSHS has determined through field tests using a measuring wheel that for practical sighting purposes, “line of sight” is approximately 600 feet if there is no visual obstruction such as a large building between the two points of measurement.

The law also requires DSHS to balance two important factors: the average time it would take law enforcement to respond to an emergency call at the SCTF, and the distance between the SCTF and risk potential activities and facilities. The idea here is that SCTFs should be as far away from risk potential activities as possible – but not so remote that it would take police a long time to reach them.

Risk potential activities and facilities include:

- Public and private schools
- School bus stops (does not include bus stops established primarily for public transit)
- Licensed day care and licensed preschool facilities
- Public parks
- Publicly dedicated trails
- Sports fields
- Playgrounds
- Recreational and community centers
- Churches, synagogues, temples, and mosques
- Public libraries.

The pressure to site and open one or more of these “Secure Community Transition Facilities” comes from the federal court, which has already seen years of delay in siting these facilities, and is not likely to tolerate any more.

Are there more sex offenders now than there used to be?

Some studies show that there are actually fewer sex offenders than there used to be, but we'll never really know for sure, because our society used to sweep a lot of sex offenses under the rug. Even now, many sex offenses are never reported.

In the past, fewer victims reported offenses for fear of not being believed, or not wanting their privacy compromised, or because victims were often blamed for somehow bringing these crimes on themselves. Today, people are generally more willing to confront these crimes and hold the perpetrator accountable for them. There are more support services for victims, better law enforcement practices, and less inclination to blame the victims.

Community notification laws and media reports may make it seem like there are more sex offenders, because we read about their offenses in the newspaper or receive notices when one moves into our neighborhood. It's important to remember that before 1990, there were probably just as many sex offenders in our community as there are now. We just didn't know about them.

Why do some sex offenders go to the SCC, while others are released directly to the community?

The SCC is for people who meet the legal definition of predatory, repeat offenders who are judged "more likely than not" to re-offend, and who have a *treatable mental abnormality or personality disorder*. Offenders who don't meet this legal definition can't be sent there, because the purpose of the SCC is to provide mental health treatment.

Thus, each year fewer than 5% of all sex offenders go to the SCC when they have completed their prison sentences.

The remaining sex offenders – about 600 per year – are released from prison into the community. Their level of post-release supervision depends on the nature of their crime(s) and their likelihood to re-offend.

What kind of treatment do SCC residents receive? Does it work?

Sex offender treatment is similar in its approach to treatment for drug and alcohol addiction. The form of treatment used at the SCC has been shown to reduce – but not eliminate – recidivism.

At the SCC, treatment is tailored to the individual in order to accommodate people with physical, mental, or developmental disabilities such as mental retardation.

The SCC treatment program is based on a standard, nationally accepted model called “Relapse Prevention with Cognitive Behavioral Therapy.” Participants attend classes and group sessions, and undergo lie detector tests and tests that measure what sexually arouses them. As part of treatment, they must examine their own sexual behavior and offenses, identify the risk factors that might lead them to re-offend, and develop strategies to avoid or deal with those risks. They also learn anger management skills, learn to accept constructive feedback, and cultivate empathy and concern for others.

This treatment is organized into six phases, and participants are evaluated carefully as they complete each phase. The sixth phase prepares the participant for transition back to the community. This preparation begins while participants are still in the SCC, and continues when they are released to a supervised community setting.

There is no set amount of time to complete treatment. Some offenders may successfully complete all six phases in two or three years; others may take much longer.

Some SCC residents refuse to participate in treatment because they hope that their confinement in the SCC will eventually be found to be an unconstitutional violation of their rights, and they will be released.

The SCC recommends less restrictive placements only for those residents who participate fully and complete all required treatment and show genuine, substantial personal change. However, although the SCC makes recommendations, it does not make the decision about who is released; an offender must get the approval of the county superior court. Before ordering a release, the court must determine that the community will be protected. Release is “conditional” – that is, the offender has to abide by the rules and conditions specified by the court, and can be sent back to the SCC if he doesn’t. The court imposes many stringent conditions that take into account the person’s offense history. For example, these conditions prohibit the person’s access to the Internet and pornography, use of drugs and alcohol, or being near former victims. They also address other important considerations such as the person’s interactions with children, the types of places where the person may not be allowed to go in the community, and restrictions on the person’s employment, social and recreational activities.

Why are there different levels of supervision for different categories of sex offenders? How does the sex offender classification system work?

Washington has three levels of sex offenders:

Level 1

The majority of registered sex offenders are classified as Level 1 offenders. They are considered at low risk to re-offend. They are usually first-time offenders, and they usually know their victims.

Level 2

Level 2 offenders have a moderate risk of re-offending. They generally have more than one victim, and may have engaged in long-term abuse of a victim. These offenders may use threats to commit their crimes. These crimes may be predatory; that is, the offender may “groom” victims by befriending them with the intention of creating an opportunity for sexual abuse. These offenders may abuse a position of trust – such as babysitter or youth group leader – to commit their crimes.

Level 3

Level 3 offenders are considered to have a high risk to re-offend. They usually have multiple victims, and may have committed prior crimes of violence. They may not know their victim(s) – or, to put it another way, they may attack strangers. Their crimes may show a manifest cruelty to the victim(s), and these offenders usually deny or minimize the crime. These offenders often have indications of a personality disorder or mental abnormality.

As you would expect, Level 1 offenders receive less post-release supervision than Level 2 or 3 offenders. (The majority of SCC residents are Level 3 offenders.)

Communities, neighbors, and the news media are notified about all Level 3 offenders released in their vicinity. Local law enforcement agencies decide on a case-by-case basis how much community notification is warranted for a Level 2 offender. Information about Level 1 offenders is available on request. Information about all levels of sex offenders is also available to the public on local law enforcement offices and on web sites.

The length of time offenders must register after their release from prison depends on the nature of their crimes. Some are required to register for 10 or 15 years, while others are required to register for life.

How does post-release supervision differ for SCC residents and those who are released directly from prison into the community?

Most sex offenders who are released to the community from prison may live wherever they choose, and may also be homeless transients. They must register with local law enforcement agencies, and they are required to check in with them periodically. Those convicted of the most serious crimes and those who are transient are generally required to check in more frequently; those whose crimes were less serious (and those who have remained in the community without re-offending for several years) are usually required to check in less frequently.

One of the biggest problems with post-release supervision is that many sex offenders can't find anyone who will rent to them, and they become transient. This makes it much harder for local law enforcement officials to keep tabs on them. It also makes it less likely that they will be stable enough to find jobs and lead law-abiding lives. The Department of Corrections and many other agencies are currently collaborating on ways to solve this problem.

SCC residents face a much different set of conditions for their release. They must live in housing approved by the court – either in an SCTF or with family members who agree to monitor them in accordance with very strict rules. They are electronically monitored 24 hours a day, required to participate in sex offender treatment, and required to undergo lie detector and drug tests and searches. The law requires high staffing levels in an SCTF to assure there is intensive supervision. SCC residents on conditional release are also forbidden to leave home (or an SCTF) without an approved and trained “monitoring adult” who must keep them in sight at all times. They are only allowed to leave their home or SCTF for pre-approved purposes such as attending treatment or going to a job or job interview. Their trips for shopping and recreation are also carefully planned in advance.

The rules each SCTF resident must live by are individually tailored to take into account their offense history, and to provide the maximum security possible to the community.

What lies ahead? Will there be more or fewer sex offenders being released in the future?

For the next few years, there will be more offenders released directly to the community, as people who committed crimes under older laws are released from prison. An estimated 560 sex offenders will be released each year for the next seven years.

There will also be more offenders sent to the SCC when they complete their prison terms. DOC and the SCC estimate about 30 offenders per year will leave prison and enter the SCC. The total number of sex offenders likely to be released from SCC to community placements is projected to be 14 in June 2003, growing to 23 in June 2004.

Eventually, it's hoped that the law passed in 2001 – the one that allows the Indeterminate Sentence Review Board to keep the most dangerous offenders in prison indefinitely – will reduce the number of dangerous sex offenders who return to our communities. However, the full impact of this change will not be realized for nearly 15 years.

How does the siting process for Secure Community Transition Facilities (SCTFs) work?

The counties that have the most offenders in the SCC will be the first to be required to site SCTFs. That means that our most populous counties will come first. Not all offenders will return to the county they came from, but each county will be asked to house their fair share of the individuals being released – this share is based on the number they sent into the SCC.

Although DSHS must decide where to locate SCTFs, it is required to work with local cities and county governments in making these decisions. Where local governments have created appropriate zoning laws that apply to SCTFs, DSHS will abide by them. Where local governments have failed to create zoning laws that meet the standards set by the state legislature, the Secretary of DSHS has the authority to make the decision about where to site an SCTF.

During the past several months, DSHS has conducted extensive research throughout King County -- the county with the largest percentage of residents at the SCC -- to identify potential SCTF sites that are not near any of the "risk potential activities and facilities" such as child care centers or school bus stops. The department has obtained real estate sales options on three sites that met all requirements. These three sites will be

the focus of local public hearings to be scheduled in January and February 2003.

Before a final site is chosen, DSHS is required to conduct two public hearings for each potential site so that the public can learn more about the issues and can check the work of DSHS researchers to ensure that no risk potentials have been missed.

Following these hearings, the Secretary of DSHS must decide on a final location, and another public hearing must then be held in that location.

How will SCTFs operate? What security measures will they have?

SCTFs will be residences that house 3-12 people, and provide a very high degree of security. In small facilities the law requires that there be high staffing levels to assure intensive supervision. Whenever a resident leaves the facility, he must be accompanied by a trained escort. Unless the court orders otherwise, the staff escort must stay with the resident at all times – even when the resident is going to a job interview or to work. Residents will only be allowed to leave the SCTF for specific purposes, with prior approval and planning.

Each SCTF staff person will be required to pass a thorough background check, and to receive specialized training. They must also be informed about each resident's offense history and behavior patterns. Staff will not be armed, but they will be equipped with cell phones and police radio phones and trained in self-defense and emergency response procedures.

The SCTF facility will have household and perimeter security systems, panic devices for all staff, and other technological measures to ensure safety. Residents must wear electronic monitoring devices unless otherwise ordered by the court.

SCTFs will also have visual barriers such as fences or hedges that screen them from public view.

The combination of all these mandated security measures means that SCTF residents will be far more closely monitored than any other sex offenders – or, for that matter, any other released violent offenders – in our communities.

How and where can people in affected communities get concerns, grievances, or requests for mitigation addressed?

Before final site selection for SCTFs is made, there will be two public hearings near each potential site. These hearings are designed to give the public a chance to learn more about the SCTF process, to make their opinions and concerns known, and to make sure DSHS has accurate and complete information on each site. There will also be a final hearing in the location that is selected.

Once an SCTF is sited and in operation, neighbors and other citizens will be provided with phone numbers and e-mail addresses that they can use to contact authorities about any concerns or requests they may have.

Citizens can also play an important role by letting state legislators and other elected officials know if state laws or local law enforcement practices should be changed. Ultimately, all of our laws and our criminal justice system are the result of our democratic process, and our state and federal constitutions.

How can I keep my family safe from sex offenders?

There are several things every family can do to be safe:

First and most important, talk to your children. They should know why they shouldn't accept gifts or rides from strangers, why they shouldn't take shortcuts by themselves, and what to do if a stranger knocks on the door. Children should know that some secrets between children and adults are wrong, and what they should do if an adult (or another child or teen) behaves in ways that make them uncomfortable.

Second, remember that children are not the only targets of sex offenders. All of us need to take sensible precautions in our homes and neighborhoods. Local law enforcement agencies are a good source of advice about how to protect personal and community safety.

Third, find out more about the sex offenders in your community. Local police and sheriff's departments post this information on their web sites. You can also call your local police or sheriff's department and ask for this information. Law enforcement officials are generally glad to hear from you, and want to give you all the information and assistance they can to *prevent* crime. Police and sheriff's departments will also send a representative to meet with you and your neighbors to discuss these

issues if you ask them. Your safety matters to your local police, and they want to work with you.

Fourth, know your neighbors. The safest communities are those where people look out for one another and pay attention to the comings and goings in their neighborhood. All of us – especially children – should know which neighbors we can turn to in any kind of emergency.

Fifth, if you suspect that someone is being victimized, report your suspicions. If you don't, and a perpetrator is left at large, more victims may suffer.

Finally, make thoughtful decisions about how you can influence our culture and our future. Think about what it would take for our society to stop *producing* so many sex offenders. This, ultimately, is the solution that everyone involved in this issue would most like to achieve.

Where can victims go for help in dealing with sex offenses?

Sex crimes are uniquely damaging and painful to victims. Many specialized services have been developed to help people recover, and to deal with aftereffects that may surface years later. These services include:

King County

- **King County Sexual Assault Resource Center**
P.O. Box 300
Renton, WA 98057
(425) 226-5062
Hotline: (800) 825-7273

Seattle

- **Abused Deaf Women's Advocacy Services**
2627 Eastlake Ave E
Seattle, WA 98102-3213
TDD: (206) 726-0093
Relay: (800) 833-6384
Hotline TDD: (206) 236-3134
- **Children's Response Center**
925 116th NE, Suite 211
Bellevue, WA 98004
(425) 688-5130
Hotline: (425) 688-5130

- **Harborview Center for Sexual Assault & Traumatic Stress**

325 Ninth Ave.

Mailstop 359947

Seattle, WA 98104

(206) 521-1800

Hotline: (206) 521-1800